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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/533,569

03/06/2006

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EXAMINER

MARC, MCDIEUNEL

ART UNIT

PAPER NUMBER

3664

MAIL DATE

DELIVERY MODE

07/06/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/533,569	<b>Applicant(s)</b> TANAKA ET AL.	
	<b>Examiner</b> MCDIEUNEL MARC	<b>Art Unit</b> 3664	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 4/16/2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 5/3/2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. Claim 1 is cancelled and claim 2 is pending.
2. The rejection to claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Background Art of the specification of this application Part 2 from pages 5-6 (hereinafter Background) in view of Langford et al. (6650516 B2) is maintained.

### ***Drawings***

3. Figures 6 and 7 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Background Art of the specification of this application Part 2 from pages 5-6 (hereinafter Background) in view of Langford et al. (6650516 B2).

As per claim 1, Background teaches “As another prior art, one invention has been proposed as to opening operation of contacts of a relay apparatus when a power supply is turned OFF. A problem of the prior art 1 has been described. That is, if the contacts of the relay apparatus are opened under such a condition that a large current flows when the power supply is turned OFF, then an arc may be produced between the contacts. As a result, surfaces of the contacts become rough, and a failure happens to occur. In this prior art 2 (in pages 5-6) (in pages 5-6), in such a case that a driving operation is turned OFF under control of the power supply to the driving apparatus, if a current is larger than, or equal to a predetermined value, then the opening operations of the contacts are not carried out, and after the current has been decreased,

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the contacts are opened. Referring now to FIG. 7, a detailed explanation is made. The prior art 2 (in pages 5-6) (in pages 5-6) is constituted by a current value detecting means 82 and a control unit 83. The current value detecting means 82 detects a contact current of a relay 81. When a current detected by this current value detecting means 82 exceeds a predetermined reference value, the control unit 83 locks a releasing operation of the relay contacts, and also, when a current value detected by the current value detecting means 82 becomes smaller than, or equal to the reference value, the control unit 83 executes the releasing operation of the relay contacts” which equates to a control apparatus of an automatic machine comprising: a driving apparatus for supplying electric power of the power supply to a driving unit of the automatic machine via a relay apparatus connected to the breaker, for controlling the driving apparatus, a current control rectifying element connected to the relay apparatus, and a current controlling device for feed-controlling the current control rectifying element after a contact of the relay apparatus has been closed when supplying of the electric power to the driving unit is turned ON, and a current controlling device for causing the current control rectifying element to be a non-feeding condition before a contact of the relay apparatus is opened when supplying of the electric power to the driving unit is turned OFF (see page 4, of the specification line 21 -- to -- page 5, line -22). Background does not specifically teach a breaker connected to a power supply.

Langford in the other hand teaches a breaker connected to a power supply (see figs. 2, 4, 5 and 8).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Background prior art 2 (in pages 5-6) at with the with the breaker that being

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connected to a power supply by Langford, because this modification would have introduce the necessary breaker to the power supply, thereby improving the automatic machine as a whole.

*Response to Arguments*

7. As to the reference not teaching a controller for rectifying current of the current control rectifying element to be decreasing condition (see page 5, of the specification lines 3-10) and anon-feeding condition before a contact of the relay apparatus is opened when supplying of the electric power to the driving unit is turned off (see page 4, of the specification line 21 -- to -- page 5, line -22).

8. Applicant's arguments filed 4/16/2009 have been fully considered but they are not persuasive.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MCDIEUNEL MARC whose telephone number is (571)272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Khoi Tran can be reached on (571) 272-6919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/McDieunel Marc/**

Examiner, Art Unit 3664

Monday, June 29, 2009

/KHOI TRAN/

Supervisory Patent Examiner, Art Unit 3664